



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 25

[Docket No. TTB-2022-0006; Notice No. 212]

RIN 1513-AC48

Modernization of Qualification Requirements for Brewer's Notices

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this notice of proposed rulemaking, the Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes deregulatory amendments to its regulations to modernize and streamline the qualification requirements for Brewer's Notices.

The proposed amendments also relax requirements associated with reporting certain changes to brewery businesses and other notification requirements. The proposed amendments are a result of TTB's evaluation of its qualification requirements and consideration of relevant public comments submitted to the Treasury Department in response to its request for recommendations concerning regulations that can be eliminated, modified, or streamlined to reduce burdens.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may electronically submit comments to TTB on this proposal using the comment form for this document as posted within Docket No. TTB-2022-0006 on the "Regulations.gov" website at <https://www.regulations.gov>.

Within that docket, you also may view copies of this document, its supporting materials, and any comments TTB receives on this proposal. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/beer/notices-of->

proposed-rulemaking under Notice No. 212. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW. Box 12, Washington, DC 20005. Please see the **Public Participation** section below for further information on the comments requested regarding this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Jesse Longbrake, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone (202) 453–1039, extension 066.

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I. Background

A. TTB Evaluation of Permit and Registration Application Requirements

In fiscal year 2017, the Alcohol and Tobacco Tax and Trade Bureau (TTB) began an evaluation of the information collected in TTB's permit and registration applications. The purpose was to identify ways to streamline the application, reduce burden on the regulated industry, and ensure that the application collects, where possible, only information necessary for meeting the agency's statutory obligations. TTB's general approach was to identify information being collected that could be eliminated without hindering TTB's ability to evaluate an applicant's qualifications and to more narrowly focus the application questions to capture only the information that is needed. Additionally, TTB considered whether applicants made any types of requests that TTB routinely approved such that it might be reasonable to amend the regulations to remove the need for such requests.

Similarly, on June 14, 2017, the Treasury Department (Treasury) published in the **Federal Register** (82 FR 27217) a Request for Information inviting members of the public to submit recommendations for Treasury regulations that could be eliminated, modified, or streamlined to reduce burdens.

TTB reviewed comments received in response to this request and identified proposals that related to beginning business in a TTB-regulated industry, including Brewer's Notices.

Through TTB's internal evaluation and consideration of the public input, TTB has identified deregulatory measures that TTB could take by amending regulations and, also, where rulemaking is not required, by amending guidance and forms. While this document addresses breweries, TTB intends to engage in further rulemaking to address other regulated industries within the context of their respective statutory eligibility requirements. Specifically, TTB will address in separate rulemakings Internal Revenue Code (IRC) permit and notice requirements for wine producers, as well as IRC requirements for TTB-regulated tobacco businesses. TTB has already published rulemaking concerning distilled spirits plants, users and dealers of specially denatured alcohol and tax-free alcohol, and Federal Alcohol Administration Act (FAA Act) basic permit holders (Notice No. 207, published in the **Federal Register** on December 3, 2021, at 86 FR 68573).

With respect to breweries, this document proposes to amend the regulations to eliminate or narrow the range of information that brewers must submit with Brewer's Notices to respond more directly to TTB's statutory obligations under the IRC. The proposed amendments include:

- Removing requirements that brewers intending to sell and serve beer on brewery premises designate and maintain a separate "tavern" area within the brewery for such activities, and including instead general provisions to account for beer sold and served to customers anywhere on brewery premises.
- Tailoring requirements to describe the brewery premises more narrowly.

TTB also is proposing regulatory amendments that will increase industry flexibility without creating any new obligations. These proposed amendments include:

- Extending deadlines for reporting certain changes to the brewer's business from 30 days to 60 days.
- Allowing brewers to use new trade names by notifying TTB in lieu of amending their Brewer's Notice.
- Allowing brewers to maintain required records at a location other than the permitted premises without first obtaining TTB approval.
- Reducing the frequency of physical inventories in certain circumstances and allowing greater flexibility in the timing of physical inventories within the inventory period.
- Allowing entities operating multiple breweries to secure one bond covering all brewery operations rather than separate bonds for each brewery.
- Eliminating the twelve day waiting period prior to destroying taxpaid beer off brewery premises.

Section II of this document includes more in-depth discussion of these and other proposed amendments.

As noted above, TTB's deregulatory strategy also includes streamlining its guidance and forms. TTB has already begun deploying such streamlining efforts in response to both TTB's internal evaluation of its applications and to comments received from the public.

B. TTB Authority

The IRC, 26 U.S.C. chapter 51, imposes Federal excise taxes on beer, provides for payment and/or refund of those taxes, and prescribes requirements related to the operations of brewers. Chapter 51 also requires all persons

intending to brew or produce beer for sale (i.e., brewers) to furnish qualifying documents to the Secretary of the Treasury (Secretary) before starting business, including a written notice containing the information prescribed by regulation as necessary to ensure collection of the revenue and, in certain cases, a bond to ensure protection of the revenue. See 26 U.S.C. 5401.

With respect to the excise tax on beer, chapter 51 generally provides that such tax is determined when beer is removed for consumption or sale from a qualified brewery in the United States, or is imported. Beer “removed for consumption or sale” includes beer sold for consumption on brewery premises. See 26 U.S.C. 5052(c)(1). Section 5552 of the IRC (26 U.S.C. 5552) authorizes the Secretary to require “installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue,” such as requiring means to accurately measure the amount of beer transferred or removed. Section 5061 governs the collection of excise tax on beer. Section 5061(d) prescribes the time periods and due dates for paying tax on a deferred basis, and generally requires that the taxes be paid on a semimonthly basis. However, section 5061(d)(4) authorizes eligible taxpayers to use annual or quarterly tax return periods instead of semimonthly periods.

Chapter 51 also imposes requirements governing the operation of breweries, including a requirement that brewers keep records in the form and manner prescribed by regulation, and a requirement that brewers make true and accurate reports of operations and transactions as prescribed by regulation. See 26 U.S.C. 5415. In addition, 26 U.S.C. 7805(a) generally authorizes the Secretary to issue regulations to carry out the provisions of the IRC.

TTB administers chapter 51 of the IRC pursuant to Treasury Order 120–01, dated December 10, 2013, through which the Secretary has delegated to

TTB certain IRC administrative and enforcement authorities, including those related to Brewer's Notices.

Pursuant to its delegated IRC authorities, TTB has promulgated regulations setting forth qualification requirements for breweries at 27 CFR part 25. TTB's regulations at 27 CFR 25.61 through 25.68 set forth the requirements for the qualifying documents that brewers must submit to TTB, including form TTB F 5130.10, Brewer's Notice. The TTB regulations prescribe additional information that brewers must include in the Brewer's Notice when they intend to operate a "tavern" on brewery premises. See 27 CFR 25.25. A brewery may not commence operations until TTB approves the Brewer's Notice. 27 CFR 25.61(a). TTB proposes amendments to the regulations specifying the information brewers must provide on form TTB F 5130.10 or its electronic equivalent, as well as in certain supporting documents.

Concerning determination and payment of the tax on beer, TTB's regulations at 27 CFR 25.159 provide that the tax will be determined at the time of its removal for consumption or sale and will be paid by return as provided in part 25. TTB's regulations generally require that breweries have suitable means to accurately measure beer for tax determination purposes. See, e.g., 27 CFR 25.41. Breweries operating taverns are currently required to have a "suitable method for measurement of the beer" that is tax determined for sale to customers for consumption at the tavern. 27 CFR 25.25(c)(1).

TTB regulations at 27 CFR 25.71 through 25.79 require brewers to report certain changes in the business affecting the Brewer's Notice (e.g., changes in address or location, changes in stockholders or officers, directors, managers, etc.). In addition, regulations at 27 CFR 25.291 through 24.301 include recordkeeping requirements as authorized by 26 U.S.C. 5415.

This notice of proposed rulemaking includes proposed amendments to the qualification process for breweries, the tax determination requirements for beer sold for consumption at the brewery, and the reporting and recordkeeping requirements described above. With respect to reporting requirements, in instances where TTB's regulations refer to submitting a "letterhead notice," industry members may provide such notices electronically in Permits Online. Unlike the brewer's initial submission of qualifying documents, these "letterhead notices" do not require TTB approval. TTB is proposing amendments to 25 CFR 25.81 to update the term "letterhead notice" to the term "written notice" and to 27 CFR 25.11 to add a definition of "written notice."

C. Relationship to Other Notices of Proposed Rulemaking

TTB recently published a notice of proposed rulemaking titled "Modernization of Permit and Registration Application Requirements for Distilled Spirits Plants," in which TTB proposed amendments, generally similar to those proposed in this document, in 27 CFR parts 1, 17, 19, 20, 22, 26, 27, 28, and 31. Amendments related to FAA Act basic permits—including basic permits as importers and wholesalers of malt beverages—were included in that document and are not included in this document. See Notice No. 207, 86 FR 68573, 12/03/2021. TTB plans to publish notices of proposed rulemaking to propose generally similar amendments to regulations related to wine, tobacco products, and processed tobacco-related applications and operations, set forth in 27 CFR parts 24, 40, 41, and 44.

II. Proposed Changes to the Regulations

The amendments proposed in this document are intended to modernize and streamline the qualification processes for breweries under the IRC. The general approach TTB adopted in developing the proposed amendments was to

identify information currently being collected that could be eliminated without hindering TTB's ability to protect and ensure collection of the revenue, and to provide more clarity and specificity in the questions and instructions on the Brewer's Notice. The proposed amendments also relax requirements associated with certain reporting requirements.

A. Retail Service Operations

For brewers who intend to operate a "tavern" or "brewpub," TTB proposes to remove requirements to designate and maintain a separate tavern area within the brewery where beer may be sold and served to customers for consumption on the premises, and replace these with general provisions related to determining tax on beer that is sold and served to customers on the brewery premises. (The TTB regulations use the term "tavern" although TTB forms and guidance also refer to a "brewpub" to recognize a term more commonly used in the industry.) TTB's regulations at 27 CFR 25.25 prescribe additional information that brewers must include in their Brewer's Notice when seeking to operate a tavern on the brewery premises. For instance, a brewer is required to identify the areas of the brewery premises that will be operated as a tavern accessible to the public, and to describe the security measures used to separate these public areas from the non-public areas of the brewery. Brewers also are required to describe in detail the method they will use for measuring beer for the purposes of tax determination (i.e., measuring the beer set aside to serve to customers on-premises, upon which tax will later be paid). Brewers must also identify any tanks that will periodically contain tax-determined beer, as well as any other areas of the brewery where tax-determined beer will be stored.

As part of TTB's evaluation of the Brewer's Notice, and in recognition of the comments and questions TTB has received over the years from brewers

regarding tavern, brewpub, and taproom operations, TTB considered ways to simplify the relevant qualification requirements and to provide more flexibility for brewers considering different types of operations. The current regulations applicable to the concept of a tavern or brewpub have not been updated since they were issued in 1988. They require a separately-defined area for retail sales of beer in the brewery. These regulations were implemented to protect the revenue on beer sold for consumption on brewery premises. The IRC does not require such a separately-defined area, and TTB considered if it could eliminate the regulatory distinction between a brewery and a brewery operating a tavern without jeopardizing the revenue.

TTB considered the differences in operations between breweries and breweries operating taverns (hereinafter “brewpubs”), as currently defined, and the related differences in the statutory requirements for the permissible methods of “removing” beer “for consumption or sale” (that is, subject to tax). The IRC defines the term “removal for consumption or sale” at 26 U.S.C. 5052(c) to mean:

(1) The sale and transfer of possession of beer for consumption at the brewery; or

(2) Any removal of beer from the brewery (except removals without payment of tax, e.g., for export or transfers in bond to another brewery).

The first definition relates to beer sold and served to a customer for consumption at the brewery. The second definition relates to beer removed for distribution (however, this definition also captures, for example, beer sold to customers at the brewery to drink outside of the brewery, as defined by the Brewer’s Notice).

Beer removed “from the brewery” is required by statute to be removed in containers. Pursuant to 26 U.S.C. 5412, “Beer may be removed *from the*

brewery for consumption or sale only in hogsheads, packages, and similar containers[.]” [Emphasis added.] The term “package” is further defined at 26 U.S.C. 5416 as a “bottle, can, keg, barrel, or other original consumer container[.]”

Section 5412’s container requirement does not apply to beer removed by sale and transfer of possession for consumption at the brewery.

With that understanding of the statutory removal requirements, TTB recognized that its regulations must address three main avenues for the retail sale of beer for consumption occurring at a brewery, for example:

- (1) Sale of untaxed beer from tanks to drink on the brewery premises;
- (2) Sale of untaxed beer from containers (such as barrels or kegs) or in containers (such as bottles) to drink on the brewery premises; and
- (3) Sale of beer in containers to drink outside of the brewery premises.

Any beer sold in containers at the brewery for consumption outside of the brewery in the third scenario would be a removal “from the brewery” subject to tax under 26 U.S.C. 5052(c)(2) and the container requirements of section 5412 would apply. TTB is not proposing any regulatory amendments affecting this type of retail sale. This third scenario includes situations where brewers operate “tasting rooms” or “taprooms” that serve beer and may be adjacent to the brewery, but are not part of the brewery itself (as defined by their Brewer’s Notice). Brewers cannot make any sales of their beer at such a tasting room or taproom from a tank or by running lines from a tank in the brewery to an adjacent area that is not part of the defined brewery premises. Brewers wishing to make such sales could do so consistent with TTB’s proposed regulations, discussed further below, by amending their Brewer’s Notice to include the tasting room or taproom area in their brewery premises.

TTB's proposed amendments address the first two avenues of sale described above: sales for consumption at the brewery (1) from tanks, and (2) from or in containers. The proposed regulations eliminate the distinction between a brewery and a brewpub, and instead outline the "retail service operations" brewers are authorized to engage in under a Brewer's Notice. The amendments eliminate certain brewpub regulatory requirements, in particular the requirements to delineate the public and non-public areas of the brewery and to employ security measures to separate those areas. Eliminating these requirements would recognize that brewers have an interest in providing broader access to their brewery operations while also ensuring that visitors do not interfere with those operations.

The proposed regulations also recognize the need to retain current policies authorizing breweries engaging in retail activities to serve food, taxpaid wine, taxpaid distilled spirits, taxpaid beer of another brewer's production, brewery related merchandise, and anything else not contrary to law.

The proposed regulations would eliminate the need for separate qualifications, such as are currently present in Permits Online, for breweries and brewpubs. Instead, brewers would merely provide basic information about any "retail service operations" in which they intend to engage.

Brewers engaging in retail service operations would be required to keep records of such retail service operations, and properly account for, for tax purposes, any untaxpaid beer sold for consumption at the brewery. In general, in the case of (1) untaxpaid beer sold from tanks, the proposed regulations provide that tax will be determined based on a measurement of the beer dispensed for sale from a tank each day, as opposed to current procedures generally requiring that tanks be tax determined in their entirety when filled. TTB believes the

proposed method of tax determination is simpler and will provide greater flexibility by eliminating the need for tax determination tanks that must be segregated from other untaxpaid beer on the brewery premises. TTB invites comments on whether to maintain tax determination tanks as another option for tax determination of beer to be sold for consumption at the brewery. In the case of (2), untaxpaid beer sold in containers, barrels and kegs must be tax determined at the time they are tapped for sale and consumption on premises, while bottles must be tax determined at the time they are sold for on-premises consumption.

TTB's proposed amendments setting forth authorized retail service operations would replace the current § 25.25. Conforming amendments are proposed to §§ 25.11, 25.23, 25.24, 25.35, 25.41, 25.62, 25.159, and 25.292.

B. Premises Description

TTB is proposing to more narrowly tailor requirements to describe the brewery premises to accelerate TTB's review during initial qualification. TTB also is proposing to consolidate requirements to provide descriptions of alternation operations with the general brewery premises description. The TTB regulations at 27 CFR 25.62 prescribe, in general, information that a brewer must provide in a Brewer's Notice, which includes a description of the brewery premises. TTB currently collects these descriptions in an open-ended narrative format. TTB requires more detailed narrative descriptions and/or diagrams where a brewer wishes to operate a tavern in the brewery or intends to alternate its premises with an adjacent bonded or taxpaid wine premises. See 27 CFR 25.25 and 25.81. TTB believes that more direct questions and certifications could enable brewers to better understand what information they must submit, which may reduce the need for additional submissions and communication between TTB and brewers,

and accelerate TTB's review process. TTB therefore proposes amendments, described below, to alter the format in which descriptions of brewery premises and related information are collected and to consolidate the collection of certain such information.

Currently, § 25.62(a)(5) requires that a Brewer's Notice include a description of the brewery in accordance with § 25.68. Section 25.68(a) sets forth the specific information to be included in the description, which includes: (1) A description of each tract of land comprising the brewery; and (2) a listing of each brewery building by its designated letter or number, giving the approximate ground dimensions and the purpose for which ordinarily used. Section 25.68(b) also requires that the description must be in sufficient detail to enable TTB officers to determine the boundaries of the brewery. TTB proposes to amend § 25.68 to remove the requirements to provide a description of the tract of land, and to number each building. TTB proposes to further clarify the specific information to be submitted in the brewery description, to include: (1) The overall dimensions of the building(s) housing the brewery and, if the brewery occupies less than the entire building, the boundaries of the brewery within the building; and (2) any portions of the brewery that are outdoors, including the location of any outdoor tanks.

Section 25.25 currently requires that a brewer desiring to operate a tavern on the brewery premises submit certain additional information with the Brewer's Notice. Paragraph (b)(1) requires the brewer to identify the portion of the brewery that will be operated as a tavern "by providing a diagram or narrative description of the boundaries of the tavern," including identification of the areas of the brewery that will be accessible to the public. As described in section II(A) of this document, TTB is proposing to replace the current requirements of

§ 25.25 entirely with new regulations governing retail service operations at the brewery and to require a statement concerning retail service operations as part of the Brewer's Notice under a new § 25.62(a)(14).

Section 25.81 sets forth requirements related to alternation of the brewery premises with a contiguous bonded winery or taxpaid wine bottling house, including requirements for certain qualifying documents. Among those qualifying documents, paragraph (b)(2) currently requires that brewers seeking to engage in such alternation provide "special diagrams," in duplicate, delineating the brewery premises and the bonded or taxpaid wine premises as they will exist in their relative operating sequence. Paragraph (b)(2) provides that the diagrams must clearly depict all areas, buildings, floors, rooms, equipment, and pipelines which are to be subject to alternation in their relative operating sequence. TTB believes that the information captured in the "special diagrams" currently required under paragraph (b)(2) can instead be consolidated into the premises descriptions required under proposed § 25.68. Accordingly, TTB proposes to amend § 25.81(b)(2) to require that the description submitted under proposed § 25.68 contain the information concerning the alternation. TTB also proposes clarifying amendments to § 25.81 to capture brewery alternation with an adjacent distilled spirits plant (DSP). This amendment is consistent with TTB's existing regulations at 27 CFR 19.143, which allow alternation between a DSP and brewery.

C. Statements of Interest

TTB proposes amendments to clarify the scope of the collection of information related to persons holding ownership interests in a business. TTB collects these statements of interest in accordance with TTB's statutory

obligations to collect the information necessary to protect and ensure collection of the revenue. See 26 U.S.C. 5401(a).

TTB must identify circumstances in which a brewery's ownership structure would affect the brewery's required method of tax payment and/or the brewery's eligibility for certain reduced rates of tax. Pursuant to 26 U.S.C. 5061(e), any taxpayer who, in any calendar year, was liable for at least \$5,000,000 in taxes on distilled spirits, wines, or beer must pay such taxes in the following year by electronic fund transfer. Paragraph (3)(A) of that subsection provides that, in the case of a controlled group of corporations, all component members of the group are treated as one taxpayer.¹ To determine whether a brewer belongs to a controlled group, and thereby to enforce section 5061(e), TTB must collect information identifying the persons holding ownership interests in the business.

Determining whether a prospective brewery is a member of a controlled group is also necessary to determine whether the brewer may be eligible for certain reduced tax rates upon TTB approval of a Brewer's Notice. Pursuant to 26 U.S.C. 5051(a)(1)(A), a reduced rate of tax is available on the first 6,000,000 barrels of beer brewed by the brewer and removed during the calendar year for consumption or sale. Section 5051(a)(2) provides a further reduced rate on the first 60,000 barrels of beer brewed and removed during a calendar year, available to brewers who produce not more than 2,000,000 barrels of beer during the calendar year.

The reduced rates under sections 5051(a)(1)(A) and (a)(2) each take into account the collective production and removal activity of a controlled group. See

¹ For purposes of 26 U.S.C sections 5061(e) and 5051(a)(5)(A), a "controlled group of corporations" has the meaning given to such term by 26 U.S.C. 1563(a), except that "more than 50 percent" must be substituted for "at least 80 percent" each place it appears in section 1563(a). Section 5061(e)(3)(B) clarifies that rules similar to paragraph (3)(A) apply to a group of persons under common control where one or more of such persons is not a corporation.

26 U.S.C. 5051(a)(5)(A). For example, if a Brewer's Notice is to be issued to a brewery that produces 50,000 barrels per year, but which is part of a controlled group with another brewery producing 3,000,000 barrels per year, TTB will need to collect information to identify the controlled group structure and thereby ensure that the breweries within the controlled group do not claim reduced tax rates for which they are ineligible.

TTB proposes amendments to 27 CFR 25.66 to clarify and standardize the collection of the basic identifying information of persons with an interest in the business. The amended § 25.66 provides that: (1) The requirement to disclose basic identifying information (i.e. names and addresses) of persons with an ownership interest in the business applies to persons with an interest at least equivalent to that of a principal stockholder in a corporation—that is, an ownership interest of 10 percent or greater; and (2) where a “person” holding such an interest is a legal entity other than an individual, the brewer must provide the name, title, and place of residence (city and State) of a representative individual for that entity. The representative individual generally will be the individual designated by the entity to represent the entity's interest in the business or, in the absence of a designated individual, an owner, chief officer or manager, or person with similar authority within the entity.

TTB believes that this is the minimum amount of information required to identify the individuals with an interest in the business and to evaluate the brewer as to any potential controlled group affiliations.

D. 30-Day Filing Requirements for Certain Changes in the Business

TTB proposes to extend the reporting period for certain changes in a brewery's business to 60 days. The TTB regulations generally require that, when there is a change in the information submitted in a Brewer's Notice, the proprietor

of the business must notify TTB of the change. The timing and form of this notification differs depending on the type of business change.

Proprietors must report some business changes to TTB within a certain amount of time following the change, generally within 30 days. For example, the TTB regulations at 27 CFR 25.75 require that the brewer submit an amended Brewer's Notice within 30 days of any change in the list of officers or directors furnished with the original Brewer's Notice.

Comments received in response to Treasury's 2017 request for information, described in section I(A) of this document, suggest that 30 days is too short a time for regulated entities to assemble the information that is required. These comments suggested that TTB should extend such filing deadlines to 60 days.

TTB reviewed these proposals and concluded that extending existing deadlines for reporting changes in the business (including in some cases by amending Brewer's Notices) from 30 to 60 days may not pose risk to the revenue or raise other concerns. Accordingly, TTB proposes amendments to extend such deadlines in 27 CFR 25.71, 25.74, and 25.75. Section 25.71 currently requires that, unless another time period is specified, a brewer submit an amended notice within 30 days of "a change with respect to the information shown in the Brewer's Notice, Form 5130.10." Section 25.74 requires a brewer to submit an amended notice to TTB within 30 days of a change in control or management of a business caused by the sale or transfer of capital stock. Section 25.75 generally requires that a brewer submit an amended Brewer's Notice within 30 days of a change to the list of officers or directors. TTB proposes to extend each of the above reporting deadlines from 30 to 60 days.

E. Changes in Trade Names

TTB proposes to revise currently-reserved section 27 CFR 25.76 to allow changes to, or additions of, trade names through a written notice to TTB rather than through an amended Brewer's Notice. The regulations at § 25.71(a)(1) currently require that brewers submit an amended Brewer's Notice for a change with respect to information shown in the Brewer's Notice, which includes the list of trade names required by 27 CFR 25.62(a)(6). The proposed regulation clarifies that a brewer need only notify TTB of the addition of a trade name prior to using such name for marking or labeling purposes as required by subpart J of part 25 (27 CFR 25.141 – 25.145). TTB's Permits Online system already includes a function for reporting additional trade names, which will satisfy the proposed § 25.76's requirement for a written notice.

TTB notes that it remains the responsibility of the brewer to ensure that any trade name is properly registered with the applicable State or local government. Brewers should further note that the FAA Act prohibits false or misleading statements on malt beverage labels, and TTB will not approve an application for label approval proposing to use a trade name on a malt beverage label that gives a misleading impression as to the age, origin, or identity of the product. 27 U.S.C. 205(e). The FAA Act also prohibits the use of misleading trade names when advertising malt beverages. 27 U.S.C. 205(e)(5).

F. Retention of Records Off-Premises

TTB is proposing amendments to allow records to be stored at a location other than the brewery and to allow brewers to simply notify TTB of their intention to store records at an off-brewery location, rather than apply for approval. As part of its evaluation of permit and registration applications, TTB sought to identify any types of requests to vary from the regulations that applicants

commonly submitted with their permit or registration applications that TTB routinely approved. One common request from brewers has been for approval to retain required records at a location other than the premises covered by the Brewer's Notice. As a result, TTB proposes to amend 27 CFR 25.300 to allow brewers to keep records at another location upon providing a written notice to TTB. The amendments provide that required records must still be made available at the brewery premises upon request, but that copies will generally satisfy this requirement (consistent with current TTB policy, "copies" includes electronic copies).

G. Inventory Requirements

TTB is proposing amendments reducing the frequency of physical inventories in certain circumstances and allowing greater flexibility in the timing of physical inventories within the inventory period. The TTB regulations at 27 CFR 25.294 require that brewers take physical inventories of beer and cereal beverages on hand at least once each calendar month and prescribe the information required on the inventory record. Section 25.294 requires that brewers take the required inventory within seven days of the close of the calendar month for which it is made.

One comment received in response to Treasury's request for information seeks elimination of § 25.294 or, alternatively, relaxation of its requirements to allow inventories to be taken within the final 15 days of the month. The comment suggests that these amendments would reduce burdens on both TTB and industry. TTB considered these suggestions and proposes to relax inventory requirements as described below.

With respect to the frequency of physical inventories, TTB proposes to align the taking of inventories with the filing of tax returns for brewers who file

less frequently than monthly. As described in section I(B) of this document, 26 U.S.C. 5061(d) requires that the taxes on beer be paid on a semimonthly basis. However, section 5061(d)(4) authorizes eligible taxpayers to use annual or quarterly tax return periods instead of semimonthly periods. Specifically, section 5061(d)(4)(A)(ii) allows a taxpayer who reasonably expects to be liable for not more than \$1,000 in excise taxes for the calendar year and who was liable for not more than \$1,000 in such taxes in the preceding calendar year to make returns annually. Section 5061(d)(4)(A)(i) allows a taxpayer who reasonably expects to be liable for not more than \$50,000 in excise taxes for the calendar year and who was liable for not more than \$50,000 in such taxes in the preceding calendar year to make returns quarterly. TTB has implemented these provisions in its regulations at 27 CFR 25.164. TTB proposes to amend § 25.294 to allow brewers authorized by 26 U.S.C. 5061(d) and § 25.164 of the TTB regulations to file tax returns on an annual or quarterly basis to complete physical inventories on an annual or quarterly basis, respectively. Brewers required to file semimonthly tax returns will still be required to conduct monthly physical inventories.

TTB further proposes to amend § 25.294 to allow physical inventories to be taken within 15 days of the close of the applicable inventory period (i.e., month, quarter, or year), rather than within 7 days of the close of the applicable inventory period.

H. Discontinuance of Business

TTB proposes to amend 27 CFR 25.85 to streamline procedures for discontinuing business as a brewer. The current § 25.85 requires a brewer discontinuing its business to first file a notice to that effect using the Brewer's Notice form, TTB F 5130.10, or its electronic equivalent in Permits Online. Under

the regulations, TTB must approve and return a copy of the notice to the brewer once “all beer has been lawfully disposed of.” This may require additional communication with the brewer prior to approving the discontinuance notice. Once TTB approves and returns the notice, the brewer must file a “final report” on form TTB F 5130.9, “Brewer’s Report of Operations,” or its electronic equivalent, showing no beer or cereal beverage on hand.

TTB proposes to amend § 25.85 to allow a written notice to the appropriate TTB officer to serve as adequate notice of discontinuance of business, rather than requiring submission of form TTB F 5130.10 and TTB approval. The notice must indicate the date on which business discontinued or will discontinue. The proposed amendments also dispose of the blanket requirement for a final report and provide that the brewer must submit such report only upon request of the appropriate TTB officer. While TTB will continue to examine the operations of closing businesses on a case-by-case basis to ensure that there are no outstanding tax liabilities, this examination would no longer impact TTB’s processing of notices of discontinuance of business. TTB believes this proposal will ease burdens on brewers exiting the industry.

TTB is also proposing conforming amendments to 27 CFR 25.102, Termination of surety’s liability, to remove a reference to TTB’s “approval” of a discontinuance notice. Under the proposed § 25.85, a notice of discontinuance of business is effective on the date indicated on the notice submitted to TTB.

I. Blanket Bond Form for Multiple Breweries

TTB is proposing amendments allowing entities operating multiple breweries to secure one bond covering all brewery operations rather than separate bonds for each brewery. The TTB regulations at 27 CFR 25.91 generally require that every person intending to commence business as a brewer

must file a bond covering operations at the brewery at the time of filing the original Brewer's Notice. There is an exemption to the bond requirement at 27 CFR 25.91(e) for brewers who are eligible to pay tax on a deferred basis annually or quarterly pursuant to 27 CFR 25.164. Section 25.91 further requires the brewer to file a new bond or continuation certificate every four years. A comment received in response to Treasury's request for information requests that TTB allow entities operating multiple breweries to obtain blanket bonds covering all locations under one bond. The comment suggests that this would reduce the amount of effort required to procure and maintain multiple bonds with differing expiration dates.

TTB agrees that allowing entities operating multiple breweries to secure one bond covering all operations is an appropriate measure to reduce burden on both industry and TTB. TTB is proposing amendments to §§ 25.91 and 25.93 to provide this option and set forth the penal sum requirements associated with such blanket bonds. TTB's proposed amendments generally provide that the penal sum required for a blanket bond will be equal to the aggregate of such sums applicable to each brewery location, as calculated under current regulation. TTB will also amend form TTB F 5130.22, Brewer's Bond, to allow coverage of multiple breweries.

J. Notice of Intent to Destroy Taxpaid Beer Off Premises

TTB is proposing to eliminate the requirement that brewers notify TTB prior to destroying taxpaid beer off brewery premises. The TTB regulations at 27 CFR 25.222 require that brewers destroying taxpaid beer off brewery premises submit to TTB a notice of intent (NOI) containing specific information about the destruction at least 12 days prior to the destruction. Generally, TTB requires brewers to submit the information contained in the NOI with a subsequent claim

for refund or credit of tax pursuant to 27 CFR 25.283. The NOI is intended to provide TTB an opportunity to assign personnel to witness a destruction under 25.223. In response to the COVID-19 pandemic, TTB suspended the NOI requirement and instead has relied on the supporting information submitted with claims, and TTB has requested additional proof of destruction where necessary (as such proof is not specifically required as supporting information under § 25.283).

To provide brewers additional flexibility in the timing of beer destructions, and to avoid requiring brewers to store taxpaid beer longer than is necessary to arrange its destruction, TTB is proposing to permanently eliminate the requirement that brewers notify TTB prior to destroying taxpaid beer off brewery premises, as well as the provision concerning routine TTB supervision of such destruction. TTB is proposing to amend § 25.283 to instead require that brewers submit, with a claim for refund or credit of tax on taxpaid beer destroyed off brewery premises, proof of destruction in the form of commercial records. TTB is also proposing to amend 27 CFR 25.221 to give TTB discretion to require a brewer to submit an NOI before destruction if the appropriate TTB officer determines that pre-notification is necessary to protect the revenue.

K. Update of OMB Control Numbers

In this document, TTB also proposes to update the Office of Management and Budget (OMB) control numbers and, as needed, the list of regulatory sections in 27 CFR part 25 containing information collections covered by those numbers. Therefore, in 27 CFR 25.5, TTB proposes to: (1) Update the OMB control numbers previously assigned to TTB's predecessor agency, the former Bureau of Alcohol, Tobacco and Firearms (ATF) (OMB No. 1512-____), to the control numbers currently assigned to TTB (OMB No. 1513-____); (2) add

inadvertently missing OMB control numbers for existing information collections and remove control numbers for obsolete collections; and (3) add inadvertently missing sections, remove obsolete sections, or otherwise correct the list of sections containing information collections.

OMB has previously reviewed and approved all of the information collections contained in the part 25 regulations listed below in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The update, addition, or removal of OMB control numbers and regulatory sections in § 25.5 is merely informational in nature, and these proposed technical and conforming amendments do not change the requirements or burden of any currently approved TTB information collection contained in part 25.

The OMB control numbers and the regulatory sections containing information collections in part 25 are as follows:

OMB Control Number	Occurs in Part 25 in Section(s)
1513–0005 (Letterhead Applications & Notices Filed by Brewers, & Brewer’s Notice)	25.23, 25.52, 25.61, 25.62, 25.64, 25.66, 25.68, 25.71–25.81, 25.85, 25.141, 25.142, 25.144, 25.158, 25.167, 25.184, 25.213, 25.221, 25.272, 25.273, 25.277, & 25.282.
1513–0007 (Brewer’s Report of Operations, and Quarterly Brewer’s Report of Operations)	25.296(b), & 25.297
1513–0009 (Application to Operate Wine Premises, & Wine Bond)	25.81(b)(3)
1513–0013 (Change of Bond (Consent of Surety))	25.72, 25.73, 25.77, 25.81, 25.92, 25.95, 25.103, & 25.271
1513–0014 (Power of Attorney)	25.65
1513–0015 (Brewer’s Bonds and Brewer’s Bonds Continuation Certificates)	25.73, 25.77, 25.91, 25.93, 25.94, 25.95, 25.97, 25.98, & 25.274
1513–0030 (Claims – Alcohol, Tobacco, and Firearms Taxes)	25.281 – 25.283, 25.285, & 25.286
1513–0048 (Registration of Distilled Spirits Plants)	25.81(b)(5)

1513–0058 (Usual & Customary Records Maintained by Brewers)	25.42, 25.186, 15.192, 25.195, 25.196, 25.211, 25.252, 25.263, 25.264, 25.276, 25.291 – 25.296, 25.300, & 25.301
1513–0083 (Excise Tax Return)	25.160, 25.163 – 25.166, 25.168, 25.175, 25.224, 25.285, & 25.298
1513–0085 (Principal Place of Business Address & Place of Production Coding on Beer & Malt Beverage Labels)	25.241 – 25.143
1513–0086 (Marks on Brewery Equipment & Structures, & Marks & Labels on Containers of Beer)	25.24, 25.35, 25.141 – 25.143, 25.145, 25.192, 25.196, 25.213, 25.231, 25.242, 25.251, & 25.263
1513–0088 (Alcohol, Tobacco, and Firearms Related Documents for Tax Returns and Claims)	25.72 – 25.75, 25.77, 25.78, 25.151, 25.163, 25.276, 25.281 – 25.286, 25.291, 25.298, & 25.300
1513–0118 (Formulas for Fermented Beverage Products)	25.53, & 25.55 – 25.58
1513–0122 (Formula & Process for Domestic & Imported Alcohol Beverages)	25.53, & 25.55 – 25.58

The proposed § 25.5 also includes changes to existing information collections as discussed in section IV(C) of this document.

III. Public Participation

A. Comments Invited

TTB invites comments from interested members of the public on the proposals described in this document. TTB also invites comments on any additional means to streamline the Brewer's Notice within the parameters of TTB's statutory obligations. As noted in section II(A) of this document, TTB specifically invites comments from brewers on whether to maintain tax determination tanks as another option for tax determination of beer to be sold for consumption at the brewery.

B. Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the Regulations.gov website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 212 and must be submitted or postmarked by the

closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may submit a comment requesting a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing.

C. Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, its supporting materials, and any comments TTB receives about this proposal within the related Regulations.gov docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings division by email using the web form available at <https://www.ttb.gov/contact-rrd>, or by telephone at 202–453–2265, if you have any questions regarding comments on this proposal or to request copies of this document, its supporting materials, or the comments received.

IV. Regulatory Analysis and Notices

A. Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory impact assessment is not required.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB has analyzed the potential economic effects of this action on small entities. In lieu of the initial regulatory flexibility analysis required to accompany proposed rules under 5 U.S.C. 603, section 605 allows the head of an agency to certify that a rule will not, if promulgated, have a significant economic impact on a

substantial number of small entities. The following analysis provides the factual basis for TTB's certification under section 605.

Impact on Small Entities

While TTB believes the majority of businesses subject to this proposed rule are small businesses, the changes proposed in this document will not have a significant economic impact on those small entities. The proposed amendments are generally aimed at reducing burden on regulated entities of all sizes by:

- (1) Eliminating the collection of certain information from Brewer's Notices;
- (2) Replacing required narrative descriptions of the premises with more specific information;
- (3) Extending deadlines for reporting certain changes in the brewer's business;
- (4) Streamlining procedures for brewers using new trade names;
- (5) Allowing the maintenance of required records at locations other than the brewery premises through a notification rather than an application for an alternate procedure;
- (6) Clarifying which individuals are required to submit statements of financial interest in the business in connection with an application for a Brewer's Notice;
- (7) Reducing the frequency of physical inventories for certain brewers and providing additional flexibility in the timing of inventories;
- (8) Streamlining procedures for discontinuing business as a brewer;
- (9) Allowing entities operating multiple breweries to secure one bond covering all operations; and
- (10) Eliminating the requirement that brewers notify TTB before voluntarily destroying taxpaid beer off brewery premises.

On June 14, 2017, the Treasury Department (Treasury) published in the **Federal Register** (82 FR 27217) a Request for Information inviting members of the public to submit views and recommendations for Treasury regulations that can be eliminated, modified, or streamlined to reduce burdens. TTB reviewed comments received in response to this request and identified proposals that related to the permit application or, more generally, to beginning business in a TTB-regulated industry. Many of the proposed changes are consistent with recommendations submitted by industry in response to Treasury's request.

To reduce the information collected in applications for Brewer's Notices, TTB proposes amendments to 27 CFR 25.25 to eliminate requirements for brewers interested in engaging in retail service operations to specifically delineate and identify the locations within the brewery where such operations will take place and to describe the security measures they will employ to segregate the public service area (the "tavern," as described in current regulation) from the brewing areas.

To streamline brewery description requirements, TTB proposes amendments to 27 CFR 25.68 and 25.81 to replace requirements for narrative descriptions of the brewery premises with requirements to submit more specific information regarding the premises. For example, § 25.68 currently requires a detailed narrative description of the brewery premises, including each tract of land covered by the brewery, featuring "approximate ground dimensions." The proposed amendments to § 25.68 remove the narrative description requirements and instead require the submission of more limited information illustrating certain specified attributes.

An example of extending deadlines for reporting changes in a permitted or registered business is the proposed amendment to § 25.71, which provides the

general rules for notifying TTB of any changes in the information included in a Brewer's Notice. Section 25.71 generally requires that when such changes occur, the brewer must file an amended Brewer's Notice within 30 days. The proposed amendments to § 25.71 extend this deadline to 60 days. TTB proposes similar amendments at §§ 25.74 and 25.75.

Regarding changes in trade names, TTB's regulations at 27 CFR 25.71(a)(1) currently require that brewers submit an amended Brewer's Notice when there is a change in the information shown on the notice, which includes the list of trade names required by 27 CFR 25.62(a)(6). The proposed amendments to 27 CFR 25.76 clarify that a brewer need only notify TTB of the addition of a trade name prior to using such name for labeling purposes as required by subpart J of part 25 (27 CFR 25.141 – 25.145), and may notify TTB through a written notice. TTB's Permits Online system already includes a function for reporting additional trade names, which will satisfy the proposed § 25.76's requirement for a written notice.

Concerning records maintenance, current recordkeeping requirements require that brewers maintain prescribed records at the brewery. The proposed amendments to 27 CFR 25.300 generally allow for the maintenance of required records at locations other than the brewery upon written notice to TTB.

With respect to the collection of background information, TTB proposes amendments to 27 CFR 25.66 to clarify the individuals who are required to submit statements of ownership interest in a business submitting a Brewer's Notice. The proposed amendments clarify that: (1) such statements of interest are required only from persons with an ownership interest in the applicant business of 10 percent or greater; and (2) where a "person" holding such an

interest is a legal entity other than an individual, a brewer must submit basic identifying information about a representative individual for that entity.

To ease burdens associated with conducting physical inventories of beer, TTB proposes amendments to 27 CFR 25.294 to reduce the frequency with which brewers are required to conduct inventories where such brewers are eligible to file annual or quarterly tax returns under 26 U.S.C. 5061(d)(4). Section 5061(d)(4) allows brewers falling under certain annual tax liability thresholds to file annual or quarterly tax returns, rather than semimonthly returns. The proposed amendment aligns inventories with the annual or quarterly return periods, where applicable. The proposed amendments to § 25.294 also provide additional flexibility to all brewers by allowing inventories to be taken within the final 15 days of the applicable inventory period (i.e., month, year, or quarter), rather than within the final 7 days.

To streamline procedures for discontinuing business as a brewer, TTB proposes to amend § 25.85 to allow a written notice to the appropriate TTB officer to serve as adequate notice of discontinuance of business, rather than requiring the outgoing brewer to file and receive TTB approval of a new Brewer's Notice. The proposed notice must indicate the date on which the business discontinued or will discontinue. The proposed amendments also dispose of the blanket requirement for a final report and provide that a brewer must submit such report only upon request of the appropriate TTB officer.

To provide additional flexibility in securing brewery bond coverage, TTB proposes amendments to 27 CFR 25.91 and 25.93 to allow entities operating multiple breweries to secure one bond covering all operations rather than requiring separate bonds for each brewery. The amendments allowing blanket

bonds will reduce the amount of effort required to procure and maintain multiple bonds with differing expiration dates.

To provide brewers additional flexibility in the timing of beer destructions, and to avoid requiring brewers to store taxpaid beer longer than is necessary to arrange its destruction, TTB is proposing to eliminate the requirement that brewers notify TTB prior to destroying taxpaid beer off brewery premises. TTB is proposing to amend § 25.283 to instead require that brewers submit, with a claim for refund or credit of tax on taxpaid beer destroyed off brewery premises, proof of destruction.

In conclusion, while the entities affected by the proposed rule include a substantial number of small entities, TTB expects the effects of the changes in this proposed rule to include modest burden reductions for the affected entities.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), TTB will submit the proposed regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small businesses.

C. Paperwork Reduction Act

As discussed above, in 27 CFR part 25, TTB proposes to update the Office of Management and Budget (OMB) control numbers and the list of regulatory sections containing information collections. OMB has previously reviewed and approved all of the information collections contained in the part 25

regulations in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control numbers assigned to information collections currently contained in part 25 are: 1513–0005, 1513–0007, 1513–0009, 1513–0013, 1513–0014, 1513–0015, 1513–0030, 1513–0058, 1513–0083, 1513–0085, 1513–0086, 1513–0088, 1513–0118, and 1513–0122.

The update, addition, or removal of OMB control numbers and section numbers containing information collections in part 25 is merely informational in nature, and these technical amendments do not change the requirements or burden of any currently approved TTB information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

In addition to those technical updates, several regulations specifically addressed in this document affect current collections of information under control numbers 1513–0005, 1513–0015, 1513–0030, 1513–0058, 1513–0083, and 1513–0086. The specific regulatory sections in this proposed rule that contain such collections of information, either current or proposed, are §§ 25.23, 25.24, 25.25, 25.35, 25.62, 25.66, 25.68, 25.71, 25.74, 25.75, 25.76, 25.81, 25.85, 25.91, 25.93, 25.167, 25.221, 25.222, 25.225, 25.283, 25.284, 25.292, 25.294, and 25.300.

The amendments that TTB proposes in this document, along with certain corresponding policy changes, are designed to reduce the overall burden associated with the information collections noted above. In general, the proposed amendments involve:

- (1) Eliminating the collection of certain information from Brewer's Notices;
- (2) Replacing required narrative descriptions of a brewer's premises with more specific information;

- (3) Extending deadlines for reporting certain changes in the brewer's business;
- (4) Streamlining procedures for brewers using new trade names;
- (5) Allowing the maintenance of required records at locations other than the brewery premises;
- (6) Clarifying which individuals are required to submit certain background information in connection with a Brewer's Notice;
- (7) Reducing the frequency of physical inventories for certain brewers and providing additional flexibility in the timing of inventories;
- (8) Streamlining procedures for discontinuing business as a brewer;
- (9) Allowing entities operating multiple breweries to secure one bond covering all operations; and
- (10) Eliminating the requirement that brewers notify TTB before voluntarily destroying taxpaid beer off brewery premises.

To reduce the amount of information collected in applications for Brewer's Notices, TTB proposes to amend 27 CFR 25.25 to remove requirements that a brewer designate and maintain a separate "tavern" area within the brewery where brewers may sell and serve beer to customers. Instead, TTB proposes to replace these requirements with general provisions related to accounting for beer sold and served to customers on the brewery premises. The amendments eliminate certain requirements associated with the current tavern regulations, in particular the requirements to delineate the public and non-public areas of the brewery, and to employ security measures to separate those areas. Under the proposed 27 CFR 25.62, brewers are merely required to disclose whether they intend to engage in retail service operations, and if so what kind. TTB proposes

to amend 27 CFR 25.292 to incorporate recordkeeping requirements related to the retail service operations authorized under the proposed § 25.25.

Section 25.25 is currently included in the collections of information assigned OMB control numbers 1513–0005 and 1513–0086; § 25.62 is currently included in the collection of information assigned OMB control number 1513–0005; and § 25.292 is currently included in the collection of information assigned OMB control number 1513–0058. Under the proposed amendments, § 25.25 no longer imposes a collection of information. Accordingly, TTB has submitted to OMB revisions of information collection numbers 1513–0005 and 1513–0086 to account for the reduced burden of the proposed amendments. TTB has submitted a revision of information collection number 1513–0058 to account for the related recordkeeping requirements under proposed § 25.292. Conforming amendments related to retail service operations are also made in proposed 27 CFR 25.23, 25.24, and 25.35; section 25.23 is currently included in the collection of information assigned OMB control number 1513–0005, while §§ 25.24 and 25.35 are currently included the collection of information assigned OMB control number 1513–0086. However, the amendments to those sections proposed in this document are unrelated to the collections of information included in those sections.

To replace required narrative descriptions of brewery premises with more specific information, TTB proposes amendments to §§ 25.68 and 25.81. The proposed amendments to § 25.68 eliminate requirements to submit detailed narrative descriptions of the brewery and certain of its attributes and replace these requirements with a more specific set of information. Section 25.81 relates to qualifying to alternate the brewery premises. TTB believes that, in general, the more direct questions in the proposed regulations will enable brewers to better

understand what information they must submit, reduce the need for additional submissions and communication between TTB and brewers, and accelerate TTB's review process. TTB proposes amendments to § 25.81 to allow descriptions or diagrams of areas to be alternated and how the alternated areas will be separated from other parts of the premises to be consolidated with the general premises description or diagram provided under § 25.68. Sections 25.68 and 25.81 are currently included in the collection of information assigned OMB control number 1513–0005. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

The TTB regulations generally require that, when there is a change in the information shown in the Brewer's Notice, the brewer must notify TTB of the change. To extend deadlines for reporting certain changes in the brewery business, TTB proposes amendments to 27 CFR 25.71, 25.74, and 25.75. In each case, TTB proposes to extend the deadline for reporting the specified change in the business to 60 days from 30 days. Sections 25.71, 25.74, and 25.75 are currently included in the collection of information assigned OMB control number 1513–0005. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

The TTB regulations generally require that brewers report changes to, or additions of, the trade names under which a brewery may operate to TTB by submitting an amended Brewer's Notice. See 27 CFR 25.62 and 26.71. TTB proposes a new 27 CFR 25.76 to clarify that a brewer need only notify TTB of the addition of a trade name prior to using such name for marking or labeling purposes as required by subpart J of part 25 (27 CFR 25.141 – 25.145) and may notify TTB through a written notice. TTB's Permits Online system already

includes a function for reporting additional trade names, which will satisfy the proposed § 25.76's requirement for a written notice. The proposed § 25.76 does not require conforming amendments to §§ 25.62 and 25.71. Sections 25.62 and 25.71 are currently included in the collection of information assigned OMB control number 1513–0005. TTB has submitted to OMB a revision of information collection 1513–0005 to account for the reduced burden of the proposed § 25.76.

The current applicable recordkeeping requirements do not explicitly allow brewers to maintain records at a location other than the brewery premises. As a result, brewers generally must submit a request for specific authorization to retain records at a central recordkeeping location rather than the brewery premises. To allow the maintenance of required records at locations other than the brewery premises, TTB proposes amendments to 27 CFR 25.300. These amendments also clarify that a brewer generally may satisfy a request for documents by providing copies of such documents, including electronic copies. Section 25.300 is currently included in the collection of information assigned OMB control number 1513–0058. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

With respect to the collection of background information, TTB proposes amendments to 27 CFR 25.66 to specify the individuals who are required to submit statements of ownership interest in the business. Section 25.66 generally requires that brewers submit a statement disclosing the identities of persons holding certain levels of ownership in a business submitting a Brewer's Notice. The proposed amendments clarify that: (1) Such statements of interest are required only from persons with an ownership interest in the business of 10 percent or greater; and (2) where a "person" holding such an interest is a legal entity other than an individual, a brewer must submit basic identifying information

about a representative individual for that entity. Section 25.66 is currently included in the collection of information assigned OMB control number 1513–0005. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

To reduce burdens associated with physical inventories, TTB proposes to amend § 25.294 to allow brewers authorized by sections 5061(d) of the IRC and § 25.164 of the TTB regulations to file tax returns on an annual or quarterly basis to complete physical inventories on an annual or quarterly basis, respectively. TTB further proposes to amend § 25.294 to allow physical inventories to be taken within the final 15 days of the applicable inventory period (i.e., month, year, or quarter). Section 25.294 is currently included in the collection of information assigned OMB control number 1513–0058. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

Concerning discontinuing business as a brewer, TTB proposes to amend § 25.85 to allow any written notice to the appropriate TTB officer to serve as adequate notice of discontinuance of business. The notice must indicate the date on which business discontinued or will discontinue. The proposed amendments also dispose of the blanket requirement for a final report, and provide that brewers must submit such report only upon request of the appropriate TTB officer. Section 25.85 is currently included in the collection of information assigned OMB control number 1513–0005. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

To provide greater flexibility in obtaining bond coverage to entities operating multiple breweries, TTB proposes amendments to §§ 25.91 and 25.93

to allow such entities to secure one bond covering all operations. TTB's proposed amendments also set forth the penal sum requirements associated with these blanket bonds. Sections 25.91 and 25.93 are currently included in the collection of information assigned OMB control number 1513-0015. TTB has submitted to OMB a revision of that information collection to account for the reduced burden of the proposed amendments.

Finally, TTB is proposing to eliminate the requirement that brewers notify TTB before voluntarily destroying taxpaid beer off brewery premises. To provide brewers additional flexibility in the timing of beer destructions, and to avoid requiring brewers to store taxpaid beer longer than is necessary to arrange its destruction, TTB is proposing to eliminate entirely §§ 25.222 and 25.223 requiring the notice, and to amend § 25.283 to instead require that brewers submit proof of destruction with a claim for refund or credit of tax on taxpaid beer destroyed off brewery premises. Section 25.222 is currently included in the collection of information assigned OMB control number 1513-0005; and §§ 25.283 is currently included in the collection of information assigned OMB control number 1513-0030. TTB has submitted to OMB revisions of those information collections to account for the reduced burden of the proposed amendments.

As noted above, TTB has submitted the revised information collection requirements to the OMB for review. Comments on these revised recordkeeping and reporting requirements should be sent to OMB at Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503 or by email to OIRA_submissions@omb.eop.gov. A copy should also be sent to TTB by any of the methods previously described. Comments on the information collections

should be submitted no later than [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER.] Comments are specifically requested concerning:

- (1) Whether the collections of information submitted to OMB are necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;
- (2) The accuracy of the estimated burdens associated with the collections of information submitted to OMB;
- (3) How to enhance the quality, utility, and clarity of the information to be collected;
- (4) How to minimize the burden of complying with the proposed revisions of the collections of information, including the application of automated collection techniques or other forms of information technology; and
- (5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

List of Subjects in 27 CFR Part 25

Alcohol and alcoholic beverages, Application procedures, Beer, Notice requirements, Reporting and recordkeeping requirements, Security requirements, Trade names.

Proposed Amendments to the Regulations

For the reasons discussed above in the preamble, TTB proposes to amend 27 CFR part 25 as follows:

PART 25—BEER

1. The authority citation for part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5121, 5122–5124, 5222, 5401-5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

2. Section 25.5 is revised to read as follows:

§ 25.5 OMB control numbers assigned under the Paperwork Reduction Act.

(a) *Purpose.* This section displays the control numbers assigned to information collection requirements in this part by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, Public Law 104–13.

(b) *Display.* The following display identifies each section in this part that contains an information collection requirement and the OMB control number assigned to that information collection requirement.

Table 1 to Paragraph (b)

Section where contained	Current OMB control number	Section where contained	Current OMB control number
25.23	1513–0005	25.163	1513–0083
25.24	1513–0086		1513–0088
25.35	1513–0086	25.164	1513–0088
25.42	1513–0058	25.165	1513–0088
25.52	1513–0005	25.166	1513–0088
25.53	1513–0118	25.167	1513–0005
	1513–0122	25.168	1513–0083
25.55	1513–0118	25.175	1513–0083
	1513–0122	25.184	1513–0005
25.56	1513–0118	25.186	1513–0058
	1513–0122	25.192	1513–0058
25.57	1513–0118		1513–0086
	1513–0122	25.195	1513–0058

25.58	1513-0118	25.196	1513-0058
	1513-0122		1513-0086
25.61	1513-0005	25.211	1513-0058
25.62	1513-0005	25.213	1513-0005
25.64	1513-0005		1513-0086
25.65	1513-0014	25.221	1513-0005
25.66	1513-0005	25.224	1513-0083
25.68	1513-0005	25.231	1513-0086
25.71	1513-0005	25.241	1513-0085
25.72	1513-0005	25.242	1513-0085
	1513-0013		1513-0086
	1513-0088	25.243	1513-0085
25.73	1513-0005	25.251	1513-0086
	1513-0013	25.252	1513-0058
	1513-0015	25.263	1513-0058
	1513-0088		1513-0086
25.74	1513-0005	25.264	1513-0058
	1513-0088	25.271	1513-0013
25.75	1513-0005	25.272	1513-0005
	1513-0088	25.273	1513-0005
25.76	1513-0005	25.274	1513-0015
25.77	1513-0005	25.276	1513-0058
	1513-0013		1513-0088
	1513-0015	25.277	1513-0005
	1513-0088 “	25.281	1513-0030
25.78	1513-0005		1513-0088
	1513-0088	25.282	1513-0005
25.79	1513-0005		1513-0030
			1513-0088
25.81	1513-0005	25.283	1513-0030
	1513-0009		1513-0088
	1513-0013	25.284	1513-0088

25.85	1513-0005	25.285“	1513-0030
25.91	1513-0015		1513-0083
25.92	1513-0013		1513-0088
25.93	1513-0015	25.286	1513-0030
25.94	1513-0015		1513-0088
25.95	1513-0013	25.291	1513-0058
	1513-0015		1513-0088
25.97	1513-0015	25.292	1513-0058
25.98	1513-0015	25.293	1513-0058
25.103	1513-0013	25.294	1513-0058
25.141	1513-0005	25.295	1513-0058
	1513-0086	25.296	1513-0007
25.142	1513-0005	25.296	1513-0058
	1513-0086	25.297	1513-0007
25.143	1513-0086	25.298	1513-0083
25.144	1513-0005		1513-0088
25.145	1513-0086	25.300	1513-0058
25.151	1513-0088		1513-0088
25.158	1513-0005	25.301	1513-0058
25.160	1513-0083		

3. Section 25.11 is amended by:

a. Removing the phrase “Form 5130.10” each place it appears and adding, in its place, “form TTB F 5130.10”; and

b. Adding, in alphabetical order, definitions of “Retail service operation” and “Written notice”.

The additions read as follows:

§ 25.11 Meaning of terms.

* * * * *

Retail service operation. Retail sale by a brewer on brewery premises of beer produced by the brewer, other alcohol beverages, food, or other brewery related merchandise.

* * * * *

Written notice. A statement on a company's letterhead or similar medium that clearly identifies the company and shows that the statement is from a company representative with power of attorney described at § 25.65, submitted in paper or electronically.

4. Section 25.23 is amended by:

- a. Revising paragraph (b)(6) and the first sentence of paragraph (c); and
- b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 25.23 Restrictions on use.

* * * * *

(b) * * *

(6) Involve retail service operations in accordance with § 25.25.

(c) *Application.* Except as provided in § 25.25 for retail service operations on brewery premises, a brewer desiring to use a brewery for other purposes must submit to the appropriate TTB officer an application listing the purposes.

* * *

§ 25.24 [Amended]

5. Section 25.24 is amended by:

- a. Removing, in paragraph (a)(1), the words “nontaxpaid beer” and adding, in their place, “beer that has not been tax determined”;
- b. Removing, in paragraph (a)(2), the word “shall” and adding, in its place, the word “must”; and

c. Removing the parenthetical authority citation at the end of the section.

6. Section 25.25 is revised to read as follows:

§ 25.25 Retail service operations at brewery.

(a) *General.* A brewer desiring to sell untaxpaid beer, taxpaid beer of another brewer's production, taxpaid wine, or taxpaid distilled spirits for consumption at the brewery is authorized to engage in such operations subject to the procedures and conditions set forth in this section.

(b) *Sale of beer from tanks.* A brewer may dispense untaxpaid beer from tanks for sale and consumption at the brewery, subject to the conditions relating to tax determination set forth in this paragraph (b). The brewer must have a suitable method for measurement of the beer dispensed from any tank as required by subpart E of this part, such as a meter or gauge glass. The brewer must determine the tax on the beer dispensed by measuring the amount dispensed for sale each day and preparing the brewer's record of tax determination, required by § 25.292(a)(8).

(c) *Sale of packaged beer.* A brewer may dispense untaxpaid beer from barrels and kegs, or make available untaxpaid beer in bottles, for sale and consumption at the brewery, subject to the following conditions relating to tax determination:

(1) *Barrels and kegs.* Barrels and kegs must be tax determined at the time they are tapped for the sale of beer for consumption on the brewery premises; barrels and kegs must be reflected on the brewer's record of tax determination, required by § 25.292(a)(8), for the day on which they are tapped. Barrels and kegs that have been tapped and tax determined for sale and consumption on the brewery premises must be physically marked or segregated in such a manner as to preclude mixing with beer that has not been tax determined.

(2) *Bottles.* Bottles must be tax determined at the time they are sold for consumption on the brewery premises and reflected on the brewer's record of tax determination, required by § 25.292(a)(8), for the day on which sold.

(3) *Storage of taxpaid or tax determined beer.* The prohibition of § 25.24 does not apply to tax determined or taxpaid beer handled in accordance with this subsection. Such beer may continue to be sold for consumption on the brewery premises after it has been tax determined or taxpaid.

(d) *Sale of taxpaid alcohol.* A brewer may sell taxpaid wine and distilled spirits, as well as taxpaid beer of another brewer's production, for consumption at the brewery. Any taxpaid beer of another brewer's production must be stored as required by § 25.24(a). Any records of sales of taxpaid wine, distilled spirits, and/or beer of another brewer's production must be distinguishable from records of sales of beer described in paragraphs (b) and (c) of this section.

(e) *Other sales.* A brewer may sell food as well as brewery-related merchandise at the brewery. Any business records of other sales that the brewer may keep must be distinguishable from records of sales of beer described in paragraphs (b) and (c) of this section.

§ 25.35 [Amended]

7. Section 25.35 is amended in the introductory text by:

- a. Removing the word "stationary"; and
- b. Removing the word "shall" and adding, in its place, the word "must".

8. Section 25.41 is revised to read as follows:

§ 25.41 Measuring system required.

The brewer must accurately and reliably measure the quantity of beer transferred from the brewery cellars for bottling and for racking, as well as the quantity of untaxpaid beer sold for consumption on brewery premises in

accordance with § 25.25. The brewer may use a measuring device, such as a meter or gauge glass, or any other suitable method.

9. Section 25.62 is amended by:

a. In paragraph (a) introductory text:

i. Removing the word “shall” each place it appears and adding, in its place, “must”; and

ii. Removing the phrase “Form 5130.10” and adding, in its place, “form TTB F 5130.10”.

b. Removing the parenthetical authority citation at the end of the section.

10. Section 25.66 is amended by:

a. Revising paragraph (c);

b. Removing the word “shall” in paragraph (d) and adding, in its place, “must”; and

c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.66 Organizational documents.

* * * * *

(c) *Statements of interest*—(1) *Sole proprietorships and general partnerships*. In the case of an individual owner or a general partnership, the name and address of each person having an interest in the business and a statement indicating whether the interest appears in the name of the interested person or in the name of another person.

(2) *Limited liability entities*. In the case of a corporation, limited liability partnership, limited liability company, or other legal entity in which some or all of the owners have limited personal liability for the activities of the entity:

(i) The names and addresses of persons having a 10 percent or more ownership or other interest in each of the classes of ownership of the entity, and the nature and amount of ownership or other interest of each person.

(ii) The name of the person in whose name the interest appears. If the limited liability entity is under actual or legal control of another limited liability entity, the appropriate TTB officer may request the same information regarding ownership for the parent limited liability entity.

(3) *Legal entities other than individuals.* If any interested person named under paragraphs (c)(1) and (2) of this section is a legal entity other than an individual, the name, title, and city and state of residence of a representative individual for the entity. The representative individual must be the individual designated by the entity to represent the entity's interest in the brewery or, in the absence of a designated individual, an owner, chief officer or manager, or person with similar authority within the entity.

* * * * *

11. Section 25.68 is revised to read as follows:

§ 25.68 Description of brewery.

(a) As required by § 25.62(a)(5), the Brewer's Notice must include a description of the brewery premises. The description may be in narrative form or diagram form, and must describe or illustrate:

(1) The overall dimensions of the building(s) housing the brewery and, if the brewery occupies less than the entire building, the boundaries of the brewery within the building; and

(2) Any portions of the brewery that are outdoors, including the location of any outdoor tanks.

(b) Photographs further illustrating any of the elements required in paragraph (a) of this section must be submitted upon request of the appropriate TTB officer.

§ 25.71 [Amended]

12. Section 25.71 is amended by:

a. Removing “shall” and “30 days” and adding, in their places, “must” and “60 days”, respectively, in paragraph (a)(1);

b. Removing the phrase “Form 5130.10” each place it appears in paragraphs (a)(1) and (2) and (b)(2) and adding, in its place, “form TTB F 5130.10”; and

c. Removing the parenthetical authority citation at the end of the section.

13. Section 25.74 is revised to read as follows:

§ 25.74 Changes in ownership interests.

Changes in the list of persons with an ownership interest furnished under the provisions of § 25.66(c)(2) must be submitted annually by the brewer on July 1 or on any other date approved by the appropriate TTB officer. When a change in the ownership interests results in a change in the control or management of the business, notification of the change will be made within 60 days in accordance with § 25.71.

14. Section 25.75 is amended by:

a. Revising the first sentence; and

b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.75 Change in officers and directors.

When there is any change in the list of officers or directors furnished under the provisions of § 25.66(a)(2), the brewer must submit, within 60 days of the change, an amended notice on form TTB F 5130.10. * * *

15. Section 25.76 is added to read as follows:

§ 25.76 Change in trade name.

Before using a trade name for marking or labeling purposes as required by subpart J of this part, the brewer must first submit a written notice to the appropriate TTB officer listing the new name and the office(s) where it is registered.

16. Section 25.81 is amended by:

- a. Revising paragraphs (a), (b), (c), (d)(6), and (e); and
- b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 25.81 Alternation of brewery and wine premises or distilled spirits plant.

(a) *General.* A brewer may temporarily extend or curtail the brewery premises to allow for several other types of alternate uses. A curtailment or extension of brewery premises may allow for the use of the premises as:

- (1) An adjacent bonded wine cellar;
- (2) An adjacent taxpaid wine bottling house; or
- (3) An adjacent distilled spirits plant.

(b) *Qualifying documents.* Before alternating the brewery for a purpose listed in paragraph (a) of this section, the proprietor must file and receive approval of the necessary registration, application forms and attachments that relate to the proposed alternate use. Depending on the type of alternation involved, the proprietor must file one or more of the following qualification documents:

(1) *Brewer's Notice.* For all alternate uses of the brewery described in paragraph (a) of this section the proprietor must file a form TTB F 5130.10, Brewer's Notice, to cover the proposed alternation of premises.

(2) *Description.* For all alternate uses, the proprietor must provide additional versions of the description required under § 25.62(a)(5) describing in narrative form or illustrating by diagram the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment that are to be subject to alternation, in their relative operating sequence.

(3) *Bond.* For all alternate uses, the proprietor must provide evidence of an existing bond, consent of surety, or a new bond to cover the proposed alternation of premises. The requirement in this paragraph (b)(3) does not apply if a bond is not required under this chapter to cover the proposed alternation.

(4) *Bonded wine cellar or taxpaid wine bottling house.* If the proprietor intends to alternate the brewery premises or part of the brewery premises as a bonded wine cellar or taxpaid wine bottling house, the proprietor must also file form TTB F 5120.25, Application to Establish and Operate Wine Premises.

(5) *Distilled spirits plant.* If the proprietor intends to alternate the brewery premises or part of the brewery premises as a distilled spirits plant, the proprietor must also file form TTB F 5110.41, Registration of a Distilled Spirits Plant, to cover the proposed alternation of premises.

(c) *Brewer's responsibility.* After approval of qualifying documents, the proprietor may alternate the designated premises pursuant to a written notice submitted to the appropriate TTB officer. The notice must contain the information required by paragraph (d) of this section. Prior to the effective date and hour of the alternation, the proprietor must segregate products as follows:

(1) *Wine operations.* Prior to alternation from brewery premises to wine premises, the proprietor must remove all beer from the brewery premises that will be alternated. Prior to alternation from wine premises to brewery premises, the

proprietor must remove all wine and spirits from the wine premises that will be alternated.

(2) *Distilled spirits plant.* Prior to alternation of brewery premises to distilled spirits plant premises, the proprietor must remove all beer from the premises except beer that is being received for production of distilled spirits as provided in 27 CFR 19.296. Prior to alternation from distilled spirits plant premises to operation of a brewery the proprietor must remove all spirits, denatured spirits, articles and wine from the premises to be alternated to brewery premises.

(d) * * *

(6) Identification of the description or diagram depicting the premises as they exist when curtailed or extended; and

* * * * *

(e) *Separation of premises.* The appropriate TTB officer may require that the portion of brewery premises, wine premises, or distilled spirits plant premises extended or curtailed under this section be separated, in a manner satisfactory to the appropriate TTB officer, from the remaining portion of the brewery premises, wine premises, or distilled spirits plant premises.

17. Section 25.85 is revised to read as follows:

§ 25.85 Notice of permanent discontinuance.

When a brewer desires to discontinue business permanently, they must provide a written notice to the appropriate TTB officer indicating the date on which business discontinued or will discontinue. Upon request of the appropriate TTB officer, the brewer must file a final report of operations on form TTB F 5130.9 or form TTB F 5130.26 showing no beer or cereal beverage on hand and marked "Final Report."

18. Section 25.91 is amended by:

- a.** Removing the phrase “Form 5130.22” each place it appears in paragraphs (a) and (b) and adding, in its place, “form TTB F 5130.22”;
- b.** Removing the word “shall” each place it appears in paragraphs (a) and (c) and adding, in its place, “must”;
- c.** Adding paragraph (f); and
- d.** Removing the parenthetical authority citation at the end of the section.

The addition reads as follows:

§ 25.91 Requirement for bond.

* * * * *

(f) *Blanket bond.* A brewer that operates more than one brewery may, in lieu of filing separate bonds, file a blanket bond on form TTB F 5130.22 for any or all of the breweries. The total amount of any blanket bond given under this section must be available for the satisfaction of any liability incurred at any factory covered by the bond.

19. Section 25.93 is amended by:

- a.** Adding paragraph (a)(4);
- b.** Removing the word “shall” each place it appears in paragraph (b) and adding, in its place, “must”;
- c.** Revising paragraph (c); and
- d.** Removing the parenthetical authority citation at the end of the section.

The addition and revision read as follows:

§ 25.93 Penal sum of bond.

(a) * * *

(4) *Blanket bonds.* Where a brewer operates multiple breweries and obtains a blanket bond covering any or all of the breweries, the penal sum of the

blanket bond must be equal to the aggregate penal sum applicable to all of the breweries covered by such bond, as calculated under paragraphs (a)(1) through (3) of this section.

* * * * *

(c) *Maximum and minimum penal sums*—(1) *Single brewery bond*. The maximum penal sum of the bond (or total penal sum if original and strengthening bonds are filed) is not to exceed \$150,000 when the tax on beer is to be prepaid, or \$500,000 when the tax is to be deferred as provided in § 25.164. The minimum penal sum of a bond is \$1,000.

(2) *Blanket bond*. The maximum penal sum of the blanket bond (or total penal sum if original and strengthening bonds are filed) is not to exceed \$150,000 per brewery covered by the blanket bond where the tax on beer is to be prepaid, or \$500,000 per brewery covered by the blanket bond when the tax is to be deferred as provided in § 25.164. The minimum penal sum of a blanket bond is \$1,000 per brewery covered by the blanket bond.

20. Section 25.102 is amended by:

- a. Revising paragraph (b); and
- b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.102 Termination of surety's liability.

* * * * *

(b) The date of discontinuance of business of the brewer indicated on the notice required under § 25.85;

* * * * *

21. Section 25.159 is amended by

- a. Revising paragraph (a);

- b. Removing the word “shall” in paragraph (c)(2) and adding, in its place, “must”; and
- c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.159 Time of tax determination and payment; offsets.

(a) *Time and payment.* The tax on beer will be determined at the time of its removal for consumption or sale, and will be paid by return as provided in this part. In the case of retail service operations, see § 25.25 for tax determination requirements.

* * * * *

22. Section 25.221 is amended by:

- a. Revising paragraph (a)(2); and
- b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.221 Voluntary destruction of beer.

(a) * * *

(2) A brewer conducting retail service operations under § 25.25(b) or (c) may destroy taxpaid or tax-determined beer stored on brewery premises, in accordance with the requirements of § 25.225.

* * * * *

23. Section 25.222 is amended by:

- a. Revising paragraph (b); and
- b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.222 Notice of brewer.

* * * * *

(b) *Execution of notice.* The brewer shall serially number each notice and execute each notice under penalties of perjury as defined in § 25.11. The brewer shall specify the date on which the beer is to be destroyed.

* * * * *

24. Section 25.225 is amended by:

a. Revising paragraphs (a) and (b)(1); and

b. Removing the word “shall” in paragraph (b)(2) and adding, in its place, “must”.

The revisions read as follows:

§ 25.225 Destruction of taxpaid beer which was never removed from brewery premises.

(a) *General.* A brewer conducting retail service operations under § 25.25(b) or (c) may destroy taxpaid or tax-determined beer which was never removed from brewery premises, in accordance with the recordkeeping requirements of paragraph (b) of this section, and with the benefit of the tax refund provisions of paragraph (c) of this section.

(b) * * *

(1) When taxpaid or tax-determined beer which was never removed from brewery premises is destroyed, the brewer must prepare a record of the quantity of beer destroyed, and the reason for, date of, and method of, destruction. The brewer may prepare this record on form TTB F 5620.8 for submission as a claim under § 25.283.

* * * * *

25. Section 25.283 is amended by:

a. Removing the word “shall” each place it appears in paragraphs (a) introductory text, (b) introductory text, (c) introductory text, and (e) and adding, in its place, “must”;

b. Revising paragraphs (a)(9) and (10) and adding paragraph (a)(11);

c. Removing the phrase “Form 2635 (5620.8)” and adding, in its place, “form TTB F 5620.8” in paragraph (e); and

d. Removing the parenthetical authority citation at the end of the section.

The revisions and addition read as follows:

§ 25.283 Claims for refund of tax.

(a) * * *

(9) A statement that the tax has been fully paid or determined;

(10) A reference to the notice filed under § 25.213 (if required) or § 25.222; and

(11) For beer voluntarily destroyed at a location other than a brewery, proof of the destruction through commercial records relating to the destruction.

* * * * *

§ 25.284 [Amended]

26. Section 25.284 is amended by:

a. Removing the phrase “Form 5000.24” in paragraph (a) and adding, in its place, “form TTB F 5000.24”;

b. Removing the word “shall” in paragraph (f) introductory text and adding, in its place, “must”; and

c. Removing the phrase “and (10)” and adding, in its place, “(10), and (11)” in paragraph (f)(1); and

d. Removing the parenthetical authority citation at the end of the section .

27. Section 25.292 is amended by:

- a. Removing the word “shall” each place it appears in paragraphs (a) introductory text and (b) introductory text and adding, in its place, “must”;
- b. Revising paragraphs (a)(8) and (11); and
- c. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 25.292 Daily records of operations.

(a) * * *

(8) Beer removed for consumption or sale.

(i) For each removal of beer from the brewery, the record will show the date of removal, the person to whom the beer was shipped or delivered (not required for sales in quantities of one-half barrel or less for delivery at the brewery), and the quantities of beer removed in kegs and in bottles.

(ii) For removals of beer for sale and consumption at the brewery, the record will show, for each day of operation, the barrel equivalent of: the total bottles of beer sold for consumption at the brewery; the total amount of beer poured from any tank(s) and sold for consumption at the brewery; and the barrels or kegs tapped for the sale of beer for consumption at the brewery. Barrel equivalents must be calculated in accordance with §§ 25.156 through 25.158.

The daily record will be supported by records of individual sales transactions.

* * * * *

(11) Beer provided gratuitously for consumption at the brewery and not as part of a retail service operation.

* * * * *

28. Section 25.294 is amended by:

- a. Revising paragraph (a);

- b. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively;
- c. Adding a new paragraph (b);
- d. Adding headings to newly redesignated paragraphs (c) and (d);
- e. Removing the word “shall” each place it appears in newly redesignated paragraphs (c) introductory text and (d) and adding, in its place, “must”; and
- f. Removing the parenthetical authority citation at the end of the section.

The additions and revision read as follows:

§ 25.294 Inventories.

(a) *General.* The brewer must take a physical inventory of beer and cereal beverage at least once each calendar month. The brewer must take this inventory within 15 days of the close of the calendar month for which made.

(b) *Exception for annual and quarterly filers.* A brewer authorized to use an annual return period under § 25.164(c)(2) need only take a physical inventory of beer and cereal beverage in the month that their annual tax return is due. A brewer authorized to use a quarterly return period under § 25.164(c)(3) need only take physical inventories of beer and cereal beverage in the months in which their quarterly tax returns are due. The brewer must take the inventories required by this paragraph (b) within 15 days of the close of the calendar month in which made.

(c) *Inventory record.* * * *

(d) *Record retention.* * * *

29. Section 25.300 is amended by:

- a. Revising paragraph (a); and
- b. Removing the word “shall” in paragraph (b) and adding, in its place, “must”; and

c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 25.300 Retention and preservation of records.

(a) *Place of maintenance.* Records required by this part generally will be prepared and kept by the brewer at the brewery premises where the operation or transaction occurs and will be available for inspection by any appropriate TTB officer during business hours. If a brewer desires to keep the required records at any location other than the brewery premises, they must first provide written notice to the appropriate TTB officer of the location where the records are to be kept. Any brewer keeping records at a location other than the brewery premises must make them available at the brewery premises upon request of the appropriate TTB officer; however, the appropriate TTB officer may allow the brewer to supply copies (including electronic copies) of such records instead of the originals.

* * * * *

Signed: May 27, 2022.

Mary Ryan,

Administrator.

Approved: May 27, 2022.

Timothy E. Skud,

*Deputy Assistant Secretary,
(Tax, Trade and Tariff Policy).*